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**A SUMMARY OF SELECTED BILLS
TRULY AGREED TO AND FINALLY PASSED**

**By The
88th General Assembly
First Regular Session**



**Prepared By
Office of State Courts Administrator**

July 1995

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INTRODUCTION

In their role of interpreting the statutes of Missouri, judges have a potential interest in almost any bill enacted. However, for this synopsis certain bills have been selected which appear to have a direct impact on the workload or procedures of the courts, or which appear likely to come to the attention of the courts within a short time. Some bills, which may provide for specific types of cases which are expected to be of low volume and therefore not of general interest, have not been included in this summary.

The individual summaries cover the major points of the bills or those sections that affect the courts, but they do not address every issue in each bill and should not be read as a substitute for reading the bill in the context of the entire chapter in the statutes.

Because of the disparate provisions in many of the bills, they have not been arranged by subject matter, but in numerical order. A table of contents is provided at the front of this document.

Except for the bills marked "vetoed," all bills included in this summary have been signed by the Governor. Signed bills become effective August 28, 1995, unless otherwise indicated. We have indicated the date signed on those bills with an emergency clause.

For a copy of any bill, please direct your request to:

Senate Bill Room
State Capitol
Jefferson City, Missouri 65101

House Post Office
State Capitol
Jefferson City, Missouri 65101

Staff of the Office of State Courts Administrator are willing to assist you in obtaining further information about any of the legislation.

SENATE BILLS

SB 24 DRIVERS' LICENSES

Provides for a space to indicate a power of attorney for health care decisions on the back of drivers' licenses.

Clarifies the law to provide that all papers, documents, and records filed with Revenue or the Bureau of Vital Records and properly certified copies will be admissible as evidence in all courts and in all administrative proceedings. §302.010, 302.181, and 302.312, RSMo 1994

HCS SCS SB 47 JUDICIAL RETIREMENT

Beginning August 28, 1995, all COLA increases that a judge would have received had the judge retired at the first opportunity will be applied to the judge's retirement benefits at the time the judge actually retires. In no event will such COLAs exceed 65% of the judge's initial retirement benefits amount.

SB 93 PAYMENTS TO CONTRACTORS

Creates a civil cause of action for non-payment on construction contracts and allows a court, in addition to any other award for damages, to award attorney's fees and monthly interest of up to 1.5% on late payments on a construction contract. Owner occupied residential property of four units or less is exempt.

Also removes, as a defense to a mechanic's lien, any contract provision which makes a payment obligation contingent upon receipt of a payment from any other party. Chapter 431, RSMo

HCS SB 102 IGNITION INTERLOCK/DWI

Beginning January 1, 1996, courts may require that a first offender DWI defendant only operate a motor vehicle during the probationary period if that vehicle is equipped with a functioning, certified ignition interlock device. Courts granting probation after a second guilty plea or conviction must order the use of the device as a condition of probation. There are exceptions provided. Courts granting limited driving privileges under §302.309 RSMo, may require use of the device as a condition of such privilege.

New misdemeanor offenses related to the ignition interlock device are provided including: it is a class A misdemeanor to knowingly rent, lease or lend a motor vehicle to a person known to have had his driving privilege restricted as provided in this bill, unless the vehicle is equipped with an ignition interlock device; it is a class A misdemeanor for the defendant to solicit another person to activate the device.

HCS SB 102 IGNITION INTERLOCK/DWI (Cont.)

Cost of the equipment will be borne by the probationers except that, when the court imposes a fine and requires the interlock device, the amount of the fine shall be reduced by the cost of the interlock device.

SB 116 NONPROBATE TRANSFERS

This bill revises the law governing nonprobate transfers. Persons interested in the specific provisions of this bill may request a copy from the Senate Bill Room, 314\751-2966.

CCS HS HCS SS#2 SCS SB 174 CHILD CUSTODY/PROTECTIVE ORDERS

The legislation provides that the child welfare policy of this state is what is in the best interests of the child.

The legislation will: provide that a child or 17-year-old in need of care because of neglect must be granted a hearing within 72 hours; include "stalking" and "harassing" in the definitions of allegations that permit a child protective order to be filed; and require service by publication in all adoption cases where the putative father is unknown.

The bill allows the court to require DFS to conduct investigations and provide services in certain child protective order cases.

No advance filing fees or bond shall be required for filing a petition in an action commenced under sections 455.500 to 455.538 (child protection orders). Assessment of court costs or a determination of indigency shall be considered by the court at the time of a termination of the proceeding.

The legislation also provides for the appointment of a guardian ad litem in certain cases involving child custody, visitation, and ex parte protection orders.

There are provisions relating to custody and visitation for abusive parents. Courts are prohibited from awarding custody or visitation to a parent who has been found guilty or pled guilty to certain sex offenses where the child was the victim.

The Supreme Court is to include a provision in the child support guidelines for calculating the amount of child support when the child spends equal time with both parents pursuant to an award of joint physical custody.

The legislation permits the findings of a juvenile commissioner to become the decree of the court in non-IV-D cases where no motion for a hearing by a judge is filed, or where the motion is denied.

The legislation stipulates that courts ordering child support or maintenance in protective order cases must do so in accordance with Supreme Court Rule 88.01 and chapter 452, RSMo.

(Some provisions of this legislation are also in HB 232 & 485.) §210.109, 211.011, 211.091, 452.340, 452.375, 452.400, 453.060, 455.010, 455.050, 455.055, 455.060, 455.501, 455.505, 455.508, 455.513, 455.516, 455.523, 455.526, 455.528, and 487.030, RSMo 1994

HS HCS SB 268 SUPREME COURT RULES/PRACTICE AND PROCEDURE IN JUVENILE COURT

Revises Missouri Supreme Court Rules to make them consistent with recently-passed legislation relating to juvenile offenders. Revises Rules 111.03, 117.01, 117.02, 118.01, 118.03, 122.04, 122.05, 128.06, 128.11, 128.15, 128.16, 128.19, and 128.21. Annuls rule 122.01

HS SS#2 SCS SB 279 FAMILY COURT CASE MANAGERS

Requires family courts and juvenile courts to have "case managers" to "work with families or persons in need, with special emphasis on reducing out-of-wedlock conception, inadequate prenatal care, induced pregnancy termination and infant mortality. The case managers are to have special training. Chapter 487

VETOED

SB 347 FAMILY COURTS

Allows a majority of the judges in a multi-county circuit to establish a family court in a county in the circuit. Judges of the court en banc may remove a judge from his duties as a family court judge and assign a new judge to sit as the family court judge.

Also allows the county commission of Greene County, upon voter approval, to establish a boot camp. Children who have been adjudicated to adult court or found to have committed an act which would constitute a felony if committed by an adult, or persons who, in the determination of the court, would benefit from a commitment to the program, may be committed to the boot camp. §487.010, 487.020, 487.040, 487.140, 487.150, and 487.170, RSMo 1994

HCS SB 352 COUNTY BUDGET PROCESS

This legislation will modify the existing law on county budgets, including the budgets of the courts and sheriff, by: 1) permitting amendments to the budget to authorize expenditure of previously unanticipated income; 2) requiring counties to escrow funds involved in court budget disputes until the Judicial Finance Commission has acted; 3) making it clear the courts' budget mandate power includes the operations of the juvenile staff; 4) including a meet and confer requirement for the courts and county commissions; 5) modifying the court's role in fixing the number of sheriffs' deputies; and 6) including a meet and confer provision for the City of St. Louis.

The bill also deletes the provision allowing the commission to refuse to review a petition filed pursuant to §50.640, RSMo, where the percentage increase of the judicial budget is equal to or less than the percentage increase of the county government budget or where four members of the commission vote to reject consideration of the case. (Some of these provisions are identical to those in HB 274 & 268 below.) §50.640, 50.641, 57.250, and 477.600, RSMo 1994

HS SB 374 DEPARTMENT OF REVENUE/RECORDS/EVIDENCE

This legislation pertains mainly to the Department of Revenue. It also contains provisions clarifying which electronic or other records may be admissible in evidence in court or in administrative agencies. Provides that a transcript, exemplification, or certified copy of any electronically filed motor vehicle, drivers license or tax report, record, return and other related document shall, upon certification of the director, be admissible in evidence in all courts or administrative agencies without further proof. A computer generated printout of an individual driving record through MULES, certified by an officer of the local law enforcement agency, shall be admissible in evidence in all courts in the state.

The bill also exempts the sale of court transcripts and related items prepared by a court reporter from the state sales tax provisions. §32.065, 32.080, 32.125, and 302.312, RSMo 1994

HCS SB 460 FOSTER CARE/CHILDREN'S SERVICES COMMISSION

Creates the "Missouri Foster and Group Home Placement Task Force" to study the current status of foster home and residential care facility placement of children in Missouri. One member of the task force is to be a family court judge, appointed by the chief justice.

The bill also allows any person who has provided foster care to a child in a two year period prior to a dispositional hearing to determine if a child should remain in foster care, to testify at the hearing. §210.101, RSMo 1994

HOUSE BILLS

HB 118 DRIVERS' LICENSE SUSPENSION EXTENDED

Extends the present law on suspension of drivers' licenses for failure to dispose of charges or pay fines or costs to all municipal and county ordinance cases in a county or municipality with a population of at least one thousand.

Also provides that any city, town or village receiving more than 45% of its total annual revenue from traffic fines for violations occurring on state highways shall distribute the amount over 45% to the schools of the county. §302.341, RSMo 1994.

HB 128 ST. LOUIS CITY COURTHOUSE RESTORATION FUND

Requires the court filing fee of \$35 deposited before August 28, 1995 to the St. Louis City courthouse restoration fund to be used only for the purpose of courthouse restoration. §478.401, RSMo 1994

SCS HB 135 ARREST REPORTS/CONFIDENTIAL RECORDS/RECORDS EXPUNGEMENT

(This synopsis is from a summary provided by the House Research Staff.)

The bill makes inadmissible any record of a communication made through a device designed to assist a hearing, speech, or physically impaired person. The communication itself may still be admissible if, had the communication occurred without the use of auxiliary aids, the rules of evidence would have allowed its introduction. Relay agents who disclose the contents of a conversation are guilty a class A misdemeanor.

The bill changes several provisions relating to police records and adds three requirements for the expungement of an arrest record: 1) the arrested person has no subsequent arrests, including misdemeanors; 2) the arrested person has not received an SIS for any offense related to the arrest; and 3) no civil action is pending related to the arrest. The bill also repeals the provision which requires the action to expunge to be commenced within three years of the arrest or, if charges were filed, within three years of any dismissal or reversal.

The bill defines the terms of **arrest, arrest report, incident report, investigative report, and inactive**. The bill requires every law enforcement agency to maintain records of all incidents reported to the agency. Incident reports and arrest reports will be open records, but investigative reports will be closed until the investigation becomes inactive.

Any person may bring an action requesting the circuit court to open up all or part of an investigative report. The court will weigh the benefits to the parties and to the public versus the harm to the ongoing investigation, any potential victims, the law enforcement's ability to perform its duties, and the public. The court may order the petitioner to pay for costs and attorney's fees. Alternatively, the court may order the law enforcement agencies to pay all costs and attorney's fees when the agency's closure of the record was "substantially unjustified." The court may impose a \$500 fine, as well as all costs and attorney's fees, upon the law enforcement officer or agency when the court finds the officer or agency purposely violated the law requiring such records to be open. §209.265, 610.100, 610.122, 610.123, 610.126, and 610.150, RSMo 1994

HB 160 ABANDONMENT/WEAPONS OFFENSES/HAZING/INVASION OF PRIVACY

Makes changes in the crime of abandonment of a child; creates a new crime involving "drive-by shootings" and increases the penalty for some weapons violations; creates the crime of "abandonment of a corpse"; increases the penalties for crimes relating to hazing; and creates the crime of "invasion of privacy." This latter relates primarily to tanning parlors. §568.030, 571.030, 578.360, and 578.365, RSMo 1994

CCS SS SCS HB 174, HCS HB 325, HCS HB 326 JUVENILE OFFENSES

This legislation contains provisions that will: provide tax credits for contributions to qualifying juvenile-related projects; allow schools to suspend certain students; provide for certification of some juvenile offenders; permit fingerprinting and photographing of some juveniles; provide legal immunity for persons who provide community service opportunities for juveniles; provide that certain juvenile court records are open to the public; create a grievance review committee for some juvenile court

CCS SS SCS HB 174, HCS HB 325, HCS HB 326 JUVENILE OFFENSES (Cont.)

personnel; provide education opportunities for certain students; create community work programs for some juveniles that are established within state agencies; establish pilot group homes for boys in the metro areas (this provision only has an emergency clause); provide for expungement of certain juvenile records; allow parents or guardians to be made a party to some juvenile proceedings and require them to contribute to a juvenile's institutional support; and provide for treatment programs for juvenile offenders in the Department of Corrections.

The legislation also provides that: prosecutors are advised of certification requests at the filing of the motion to dismiss the juvenile matter; prosecutors can testify as to the likelihood of prosecution under the general law; certain juvenile proceedings are open to the public; courts may make length-of-stay orders for certain juveniles; the amount of restitution a juvenile or parent may be ordered to pay is increased from \$2,000-\$4,000; and the restriction on access to certain juvenile records is removed. Certain juvenile arrest records may be admissible for impeachment in a later hearing.

The legislation provides for a dual sentence in juvenile and adult court of certain juvenile offenders. Imposition of the adult sentence would be withheld pending successful completion of the juvenile court sentence. There is a provision for a hearing to revoke the juvenile sentence and impose the adult sentence.

The legislation further adds a number of responsibilities to the Office of State Courts Administrator in the juvenile justice area including: developing performance standards; developing training standards; evaluating services; collecting outcome data; developing standard assessment forms; and developing criteria for determining the length of time juveniles should be detained prior to adjudication.

Juvenile courts are required to submit outcome data and have personnel attend training. The Office of State Courts Administrator, Social Services, Health, and Mental Health are to coordinate information systems to allow tracking of individual children.

There is a "Juvenile Court Personnel Advisory Committee" in the Office of Administration to study and make recommendations on funding and salaries of juvenile court personnel. The legislation also creates the "Youth Opportunities Prevention Act," the "Youth Opportunities Prevention Program," and the "Youth Opportunities Prevention Fund."

A "juvenile court assistance fund" is created which would be used to reimburse counties for fringe benefit costs on salaries of some juvenile court personnel currently reimbursed by the state. There is, however, no funding mechanism provided. §32.115, 43.503, 167.161, 167.171, 211.071, 211.083, 211.141, 211.151, 211.171, 211.181, 211.185, 211.321, 211.321, 211.351, 211.393, 211.395, 217.345, 219.021, 562.081, 589.300, 589.310, 595.015, 595.030, and 610.126, RSMo 1994

HB 189 SMALL CLAIMS

Increases the jurisdictional limit of small claims court from \$1,500 to \$3,000.

Also requires the amount in controversy in any contractual dispute to be more than the small claims jurisdictional amount before the chapter governing arbitration applies. §435.465, 482.305, and 482.315, RSMo 1994

SS SCS HCS HB 217 WATERCRAFT VIOLATIONS

Creates a number of new duties and crimes relating to watercraft including: reporting deaths resulting from accidents; regulating personal watercraft; limiting noise levels; imposing age restrictions for watercraft operation; imposing nighttime speed limits; making leaving the scene of a vessel accident a crime; and requiring recordkeeping of boat rentals. The legislation also has provisions relating to the sale and transfer of watercraft.

The bill has an emergency clause. It was signed on 5/25/95. §58.445, 306.010, 306.016, 306.030, 306.030, 306.070, 306.080, 306.122, 306.125, 306.126, 306.150, 306.210, 306.545, 306.550, and 430.082, RSMo 1994

CCS SCS HCS HB 232 & 485 FOREIGN ORDERS OF PROTECTION

This legislation provides that the child welfare policy of this state is what is in the best interests of the child; requires juvenile officers to provide an assessment of the impact of the voluntary dismissal of a petition in juvenile court; requires service by publication on an unknown father in adoption cases; and provides a procedure whereby foreign orders of protection may be enforced in this state. Section 455.032 provides that "In addition to any other jurisdictional ground provided by law, a court shall have jurisdiction to enter an order of protection restraining or enjoining the respondent...if the petitioner is present, whether permanently or on a temporary basis within the state of Missouri and if the respondent's actions constituting abuse have occurred...within the state of Missouri. For purposes of this section, if the petitioner has been the subject of abuse within or outside of the state of Missouri, such evidence shall be admissible to demonstrate the need for protection in Missouri."

The legislation also directs the Supreme Court to provide uniform forms for petitions and orders of protection. §210.109, 211.011, 211.091, 453.060, and 455.040, RSMo 1994

HB 239 LINN COUNTY COURTHOUSE

Allows the Linn county commission to hold a public referendum on whether the county should continue to maintain a second courthouse at a location other than the county seat (Linneus). **This bill has an emergency clause. It was signed on 2/3/95.** §478.035, RSMo 1994

CCS SS SCS HCS HB 274 & 268 COUNTY BUDGET PROCESS

This legislation will modify existing law on county budgets, county officials' salaries and certain state-paid circuit clerk salaries. It changes the procedures by which annual budgets for county circuit courts are established. Circuit courts must include estimates of expenditures to support the operations of juvenile officers and juvenile court personnel. There is a meet and confer provision between the presiding judge and the county commission and budget officer at least 15 days prior to filing a formal budget estimate for the circuit court. Changes are made to the law to more clearly include within the dispute resolution authority of the Judicial Finance Commission the juvenile court and sheriffs' budgets. In disputes submitted to the Judicial Finance Commission, an amount equal to the difference between the court's budget and the commission's must be placed in a separate escrow account. The money is to be appropriated upon the final determination of the Judicial Finance Commission. There are separate meet and confer provisions for the 22nd judicial circuit (St. Louis City).

CCS SS SCS HCS HB 274 & 268 COUNTY BUDGET PROCESS (Cont.)

The bill makes several changes in the law regarding the salary of county officials and increases the mileage expense rate for sheriffs from \$0.25 per mile to \$0.30 per mile.

The legislation will grant a statutory salary increase to the circuit clerk district one in Marion County (Palmyra) of \$2,775 above that appropriated for FY 96. It will also increase the statutory salaries of circuit clerks in 1st class counties with courthouses in two cities by \$4,000/year each. Currently, Jackson County (Kansas City and Independence) and Jasper County (Carthage and Joplin) qualify. (See SB 352.) §50.333, 50.343, 50.640, 50.641, 50.753, 57.250, 57.350, 57.430, 473.740, 477.600, and 483.083, RSMo 1994

SS#2 SCS HS HB 383 NUISANCE ORDINANCES; LANDLORD-TENANT

This legislation pertains primarily to actions on nuisance property in Kansas City, St. Louis City, and first class counties.

The bill also contains a provision requiring landlords who are non-residents or corporations to designate in writing an agent who can receive notice of a lawsuit. The address and name of the agent is required to be filed with the Secretary of State. If no agent is designated, notice on the landlord is not effective unless the petitioner mails a copy of the notice to the landlord. An affidavit of compliance with this section must be filed with the circuit court clerk. §67.400, 67.410, 82.1025, and 441.520, RSMo 1994

CCS SS SCS HCS HB 416, 474, 544, & 587 RETIREMENT

We have used the summary provided by the House Research Staff for this bill. We have only included those parts of the bill that apply to MOSERS members and the judiciary. As always, we recommend that questions about retirement legislation be directed to MOSERS, 314\751-2342.

- 1) Allows a terminated vested member to make a one-time election for the system to pay the present value of a deferred annuity, if the amount of the member's creditable service is less than 10 years and the member is not within 5 years of eligibility for receiving an annuity. Upon subsequent employment of one year in a position covered by MOSERS, the employee can elect to purchase creditable service equal to the amount surrendered due to the previous elections to receive a payment of a deferred annuity;
- 2) Automatically reverts a member's retirement benefits to an amount equal to the member's normal annuity should the member, having chosen a joint and survivor option, be predeceased by his or her spouse. The reversion will be effective the first of the month following the death of the spouse regardless of when the member submits a written application to have the benefits adjusted;
- 3) Increases, as of May 1, 1996, the amount of life insurance a MOSERS member may retain upon retirement from \$10,000 to \$60,000;
- 4) Removes language guaranteeing that a member who is under a long-term disability program provided by the federal government will continue to accrue normal annuity benefits;

CCS SS SCS HCS HB 416, 474, 544, & 587 RETIREMENT (Cont.)

- 5) Grants the surviving spouse of a judge who dies or died on or after January 1, 1994, while receiving long term disability benefits 50% of the retirement compensation the judge would have been entitled to had that judge served the 12 years required for a judge to receive full retirement benefits;
- 6) Permits judges who qualify for disability benefits to continue to accrue creditable service until such employees reach normal retirement age or are no longer disabled;
- 7) Grants qualifying judges who retire a death benefit of \$5,000 as compensation for duties performed as special consultants to MOSERS.

CCS SCS HB 424 DEPARTMENT OF CORRECTIONS

This legislation provides numerous changes in the statutes relating to the Department of Corrections; many of them, however, are strictly technical.

The legislation also provides that all copies of documents or records of the Department of Corrections may be admissible as evidence the same as originals; provides that damaging a Corrections building by an offender is a class C felony; expands the crime of escape or attempt to escape to include treatment centers operated by Corrections; provides civil immunity for certain entities in cases of work done by persons under the supervision of Corrections; deletes language relating to the board of probation and parole in St. Louis City and St. Louis County; makes changes in how sentences served are credited; limits the circuit courts' authority to grant probation for certain child molestation and abuse cases; prohibits insurance companies from denying coverage to prisoners; requires repayment of medical expenses as a condition of probation, parole or conditional release from a county correction facility; extends bail provisions to persons detained on probation violations; changes the sex offender registration requirements; provides for a prosecutors' pay raise in certain counties; requires Corrections to maintain a grievance resolution system; restricts the ability of inmates to file civil suits by imposing penalties for certain actions and requiring courts to stay any civil action brought by an inmate until the inmate has exhausted available administrative remedies; restricts the court's power to reduce security deposits in suits filed by inmates; and requires an autopsy on all prisoners who die while in the custody of Corrections.

The bill also raises the amount of inmate reimbursement by the state from \$17.00 to \$20.00, effective 7/1/96; increases the penalties for some stealing convictions; allows Kansas City to impose a \$10.00 fee on probationers; changes St. Louis County municipality law; and authorizes the presiding judge of the 19th circuit to appoint a marshall at state expense. §21.455, 49.310, 56.066, 56.240, 56.265, Chapter 217, sections .010, .015, .025, .035, .040, .043, .050, .075, .090, .095, .100, .125, .130, .135, .138, .165, .170, .175, .185, .195, .197, .210, .220, .225, .230, .235, .240, .245, .255, .265, .275, .305, .325, .330, .350, .355, .360, .365, .370, .385, .390, .400, .410, .420, .430, .450, .515, .525, .530, .665, .670, .680, .690, .695, .722, .777, .800, .827, .829, .831, .833, .835, .839, .841, .900, .905, .910, .915, and 221.105, 221.120, 304.022, 491.230, 514.040, 545.473, 546.710, 546.730, 546.740, 549.500, 558.026, 558.031, 559.016, 559.026, 559.036, 559.125, 565.084, 566.600, 566.603, 566.605, 566.607, 566.610, 566.614, 566.620, 570.040, and 575.210, RSMo 1994

SS SCS HB 461 HIGHWAY PATROL SEARCH AND SEIZURE

Repeals a sunset clause on the provision that grants the Highway Patrol authority to request a search warrant from a prosecuting attorney. This bill has an emergency clause. It was signed on 4/3/95. §43.200, RSMo 1994

HB 717 MOTORCYCLE SAFETY/SPEEDING

This legislation will: reduce the penalty for failure to wear protective motorcycle headgear; change the regulations relating to motorcycle operation and create a motorcycle safety education program; expand the kinds of documents admissible as evidence in courts and administrative proceedings; change the definition of the crime of "driving while revoked"; change some regulations relating to commercial motor vehicles and provide new penalties; and reduce the penalty for speeding from a misdemeanor to an infraction.

The legislation also creates the "Motorcycle Safety Trust Fund," to fund training and safety programs for motorcyclists. The fund is to receive monies from court costs of \$5.00 imposed on traffic ordinance or statute violators who are motorcyclists, or involved in a violation involving a motorcyclist, or involved in an accident with a motorcyclist. The cost is doubled if alcohol was involved. §301.133, 302.010, 302.020, 302.140, 302.173, 302.302, 302.312, 302.321, 302.700, 302.720, 302.725, 302.755, 302.770, 304.009, and 304.010, RSMo 1994